

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

23-CR-56-LJV-HKS  
DECISION & ORDER

MICHAEL BURNETT,

Defendant.

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1. On May 21, 2024, the defendant, Michael Burnett, pleaded guilty to Counts 1 and 5 of the Indictment charging a violation of Title 21, United States Code, Section 841(a)(1) (possession with intent to distribute 40 grams or more of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide [fentanyl], and Title 18, United States Code, Section 922(g)(1) (felon in possession of a firearm and ammunition). Docket Item 44.

2. On May 22, 2024, the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, filed a Report & Recommendation recommending that the defendant's pleas of guilty be accepted and that the defendant be adjudged guilty. Docket Item 45.

3. This Court has not received objections to the Report & Recommendation in accordance with Title 28, United States Code, Section 636(b)(1), and Rule 59(b) of the Federal Rules of Criminal Procedure, and the time to object now has expired.

4. This Court has carefully reviewed *de novo* Judge Schroeder's Report & Recommendation (Docket Item 45), the plea agreement (Docket Item 44), the indictment (Docket Item 11), a transcript of the plea proceeding (Docket Item 47), and

the applicable law. This Court finds no legal or factual error in Judge Schroeder's Report & Recommendation and therefore adopts Judge Schroeder's recommendation that the defendant's pleas of guilty be accepted and that the defendant be adjudged guilty of Counts 1 and 5 of the indictment.

IT IS HEREBY ORDERED that this Court adopts Judge Schroeder's May 22, 2024 Report & Recommendation, Docket Item 45, in its entirety, including the authorities cited and the reasons given therein, and it is further

ORDERED that the Court accepts the defendant's pleas of guilty and defers acceptance of the plea agreement pursuant to Sentencing Guidelines Section 6B1.1(c), and the defendant, Michael Burnett is now adjudged guilty under Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 922(g)(1).

SO ORDERED.

Dated: July 30, 2024  
Buffalo, New York



LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE